

**NEVADA DEPARTMENT OF
CONSERVATION & NATURAL RESOURCES**

STATE ENVIRONMENTAL COMMISSION

HEARING ARCHIVES FOR

REGULATORY PETITIONS

COMMISSION PETITION NO. 2002-06

LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-020-02

DOCUMENTS INCLUDED IN THIS FILE:

YES SECRETARY OF STATE FILING FORM

YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B

REGULATORY PETITIONS

ORIGINAL DRAFTED BY COMMISSION

ADOPTED BY COMMISSION

AS FILED AND CODIFIED BY LCB

Secretary of State
Filing Data

**For Filing
Administrative
Regulations**

For Emergency
Regulations Only

Effective Date

Expiration Date

Governor's Signature

State Environmental Commission

Classification ☐ Proposed ☐ Adopted By Agency ☒ Temporary ☐ Emergency ☐

Brief description of action: **Petition 2002-06 (R-020-02)** is a permanent amendment to NAC 519A.010 to 519A.240, the mining reclamation program. The amendment adds a new provision regarding annual fees and third party review of surety requirements. A second new provision defines exclusions to the fee for minor modifications. NAC 519A.235, the annual submission of fees for services was amended, new categories added and the fees increased. The adopted fees are effective in the current fiscal cycle, beginning April 15, 2002

Authority citation other than 233B: NRS 519A.160

Notice date: February 7, February 14 and February 21, 2002

Hearing date: March 8, 2002

Date of Adoption of Agency: March 8, 2002

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
PETITION 2002-06 LCB File R-020-02
STATE ENVIRONMENTAL COMMISSION**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 519A. This regulation deals with amendments to the fees for mining reclamation.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Petition 2002-06 (LCB File R-020-02), was noticed three (3) times on February 7, February 14 and February, 2002 as a permanent regulation in the Las Vegas Review Journal and the Reno-Gazette-Journal newspapers. Regulatory workshops were conducted by the Nevada Division of Environmental Protection's Bureau of Mining Regulation and Reclamation on February 14, 2002 in Winnemucca, February 15, 2002 in Elko and February 20, 2002 in Carson City. The regulation was adopted by the State Environmental Commission as a permanent regulation on March 8, 2002. There was no public comment or written testimony received by the Commission during permanent adoption. The public was also mailed the notice of intent and agenda through the Environmental Commission's mailing list. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 extension 3118, or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

2. The number persons who:

(a)	Attended each hearing;	26
(b)	Testified at each hearing:	1
(c)	Submitted to the agency written comments:	0

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. See above statement for dates of the public notices and public workshops. Oral testimony from the Nevada Mining Association supporting the proposed fee increase was received during permanent adoption. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The regulation was adopted by the State Environmental Commission on March 8, 2002 with amendments to clarify the exclusion of minor modifications from the mining reclamation fee increase.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

(a) Estimated economic effect of the regulation on the business which it is to regulate;

The proposed regulation increases fees for mining reclamation permits. The regulation will increase permit costs for the mining industry. The fees will allow a continued level of service for timely review and approval of permit decisions. The fees will also allow for sustained coordination with federal agencies (the BLM and U.S. Forest Service) also involved in mining reclamation..

(b) Estimated economic effect on the public;

The proposed amendments are not expected to have any economic short or long-term adverse impact upon the public

6. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for implementation of this regulation.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The regulations do not overlap or duplicate any regulations of another state or local governmental agency.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

This regulation is no more restrictive or stringent than federal requirements.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

This regulation provides for increased fees for mining reclamation permits. It is projected that the fees collected will be annually about \$ 438,100. The expenditures cover the cost for administration and enforcement of mining reclamation regulations. The fee supports 6.5 positions including costs for salaries and benefits, travel, training, equipment, operating, information services and indirect costs.

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ADOPTED PERMANENT REGULATION OF THE STATE ENVIRONMENTAL COMMISSION

LCB File No. R020-02

March 7, 2002

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted, underscored is new amended language by the Environmental Commission, with ~~strikeout and underscored~~ language is text deleted from the adopted regulation.

AUTHORITY: §§1-5, NRS 519A.160.

Section 1. Chapter 519A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. *If an operator has filed a corporate guarantee to meet the surety requirements of NAC 519A.350, the operator shall, on or before April 15 of each calendar year:*

- 1. Submit to the division an annual review fee of \$10,000; or*
- 2. Arrange for an annual review by a third-party financial consultant to demonstrate to the satisfaction of the division that the operator has adequate financial security.*

Sec. 3. *1. The fee for a minor modification to a permit for an exploration project or a permit for a mining operation is one-half the amount of the applicable annual fee for the permit.*

2. The fee for a major modification to a permit for an exploration project or a permit for a mining operation is equal to the amount of the applicable annual fee for the permit.

3. As used in this section, ~~“minor modification” does not include~~ the following are not deemed modifications:

(a) An increase or decrease in the amount of surety necessary to cover the cost of reclamation as determined by the 3-year periodic review of the amount of surety required by NAC 519A.380; or

(b) Changes to the proposed seed mix for reclamation.

Sec. 4. NAC 519A.010 is hereby amended to read as follows:

519A.010 As used in NAC 519A.010 to 519A.415, inclusive, *and sections 2 and 3 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 519A.015 to 519A.095, inclusive, have the meanings ascribed to them in those sections.

Sec. 5. NAC 519A.235 is hereby amended to read as follows:

519A.235 *1.* On or before April 15, 1991, and on or before April 15 of each year thereafter, an operator of an exploration project or *a* mining operation shall submit to the division for services rendered by the division ~~1. One hundred dollars for~~ *the applicable fees required by this section.*

2. For each exploration project which is active on October 1, 1990, and for which a permit has been issued by the division or an application for a permit has been submitted to the division ~~2.1~~, *the operator shall submit to the division:*

(a) If the total affected area is 20 acres or less, a fee of \$100.

(b) If the total affected area is more than 20 acres but not more than 100 acres, a fee of \$500.

(c) If the total affected area is more than 100 acres but not more than 500 acres, a fee of \$1,000.

(d) If the total affected area is more than 500 acres, a fee of \$2,000.

3. For each mining operation which is active on October 1, 1990, and for which a permit has been issued by the division or an application for a permit has been submitted to the division ~~3.1~~

~~(a) A fee of \$500 if the total affected area is 200 acres or less;~~

~~(b) A fee of \$1,000 if the total affected area is more than 200 acres but does not exceed 500 acres;~~

- ~~—(c) A fee of \$1,500 if the total affected area is more than 500 acres but does not exceed 1,000 acres; and~~
~~—(d) A fee of \$2,000 if the total affected area is more than 1,000 acres.] , the operator shall submit to the~~

division:

- (a) If the total affected area is 50 acres or less, a fee of \$500.*
- (b) If the total affected area is more than 50 acres but not more than 200 acres, a fee of \$1,500.*
- (c) If the total affected area is more than 200 acres but not more than 500 acres, a fee of \$3,000.*
- (d) If the total affected area is more than 500 acres but not more than 1,000 acres, a fee of \$4,500.*
- (e) If the total affected area is more than 1,000 acres but not more than 2,500 acres, a fee of \$9,000.*
- (f) If the total affected area is more than 2,500 acres but not more than 5,000 acres, a fee of \$12,000.*
- (g) If the total affected area is more than 5,000 acres, a fee of \$16,000.*

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